

§ 240.18

31 CFR Ch. II (7–1–11 Edition)

the appendix to this part. These forms are available on the FMS website at: <http://www.fms.treas.gov/checkclaims/regulations.html>.

§ 240.18 Lack of authority to shift liability.

(a) This part neither authorizes nor directs a financial institution to debit the account of any person or to deposit any funds from any account into a suspense account or escrow account or the equivalent. Nothing in this part shall be construed to affect a financial institution's contract with its depositor(s) under authority of state law.

(b) A financial institution's liability under this part is not affected by any action taken by it to recover from any person the amount of the financial institution's liability to the Treasury.

§ 240.19 Reservation of rights.

The Secretary of the Treasury reserves the right, in the Secretary's discretion, to waive any provision(s) of this regulation not otherwise required by law.

APPENDIX A TO PART 240—OPTIONAL FORMS FOR POWERS OF ATTORNEY AND THEIR APPLICATION

FMS Form 231—General Power of Attorney (Individual). This general power of attorney form may be executed by an individual, unincorporated partnership, or sole owner, for checks drawn on the United States Treasury, in payment: (1) For redemption of currencies or for principal or interest on U.S. securities; (2) for tax refunds; and (3) for goods and services.

FMS Form 232—Specific Power of Attorney (Individual). This specific power of attorney form may be executed by an individual, unincorporated partnership, or sole owner to authorize the indorsement of any class of check drawn on the United States Treasury. To be valid, the form must be executed after the issuance of the check and must describe the check in full, including the check serial and symbol numbers, date of issue, amount, and name of the payee.

FMS Form 233—Special Power of Attorney (Individual). This special power of attorney form may be executed by an individual, unincorporated partnership, or sole owner, to authorize the indorsement of payments other than those listed under FMS Form 231, such as recurring benefit payments. It may name any person (as the term person is defined in 31 CFR part 240) as attorney-in-fact, but must describe the purpose for which the

checks are issued and recite that it is not given to carry into effect an assignment of the right to receive payment, either to the attorney-in-fact or to any other person. A special power of attorney is not effective for purposes of negotiating checks issued after the payee is determined to be incompetent, unless the payee has indicated that the special power of attorney is to: (1) Remain effective following a determination that the principal is incompetent (a durable special power of attorney); or (2) become effective following a determination that the principal is incompetent (a springing durable special power of attorney). In no instance may a special power of attorney be used as the basis for negotiation of a check drawn on the United States Treasury more than six months after a determination that the principal is incompetent.

FMS Form 234—Specific Power of Attorney (Corporation). This general power of attorney form may be executed by a corporation to authorize the indorsement by an attorney-in-fact for the classes of payments listed under FMS Form 231. When authority is given to an officer of the corporation to execute a power of attorney authorizing a third person to indorse and collect checks drawn on the United States Treasury in the name of the corporation, the power of attorney on FMS Form 234 should be accompanied by FMS Form 235 (Resolution by Corporation Conferring Authority Upon an Officer to Execute a Power of Attorney for the Collection of Checks Drawn on the Treasurer of the United States), executed by the officer authorized herein to execute such a power.

FMS Form 236—Specific Power of Attorney (Corporation). This specific power of attorney form may be executed by a corporation to authorize the indorsement by an attorney-in-fact of any class of check drawn on the United States Treasury. To be valid, the form must be executed after the issuance of the check and must describe the check in full, including the check serial and symbol numbers, date of issue, amount, and name of the payee. When authority is given to an officer of the corporation to execute a power of attorney authorizing a third person to indorse and collect checks drawn on the United States Treasury in the name of the corporation, the power of attorney on FMS Form 236 should be accompanied by FMS Form 235 (Resolution by Corporation Conferring Authority Upon an Officer to Execute a Power of Attorney for the Collection of Checks Drawn on the Treasurer of the United States), executed by the officer authorized herein to execute such a power.